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Atty. Doc. No. 2002P16717WOUS

REMARKS

Claims 8-24 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Claims 8-9, 12-13, 15-17 and 19-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over US patent no. 6,591,272 (hereinafter Williams) in view of US patent no. 6,859,931 (hereinafter Cheyer). Claims 10, 11, 14 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Williams in view of Cheyer and further in view of US patent application publication No. 2003/0225801 (hereinafter Devarakonda). Reconsideration of the rejections, and allowance of the pending claims are requested in view of the foregoing amendments and the following remarks.

Claims 1-7 were previously canceled. Claims 8, 21 and 23 have been amended to further emphasize aspects of the present invention. Thus, claims 8-24 stand pending.

With regard to the rejection under Section 101, the applicant notes that independent claim 8 is directed to a computer-based system for structuring, storing and processing of computer-readable data from a plurality of distinct software applications. Claim 8 further has been amended to recite a physical structure, (e.g., a processor) adapted to process a type Object to produce a series of attributes in the type Object, and further adapted to process a type Feature to produce a series of attributes in the type Feature. Applicant respectfully submits that claim 8 now contains apparatus in compliance with Section 101.

In addition, claim 8 recites structural and/or operational relationships that provide a tangible result, with real world value, such as 1) producing a network of objects that is free of incompatible data exchange structures in the plurality of distinct software applications, and 2) once such incompatibilities are removed, performing an exchange of computer-readable data between the plurality of distinct software applications. The foregoing constitutes a particular practical purpose that has a specific and substantial utility in an automation system being engineered in the real world with multiple software applications. Moreover, applicant believes that the foregoing results would be considered credible by a person of ordinary skill in the art, and, consequently, the rejection of claim 8 under 35 U.S.C. §101 as lacking utility (not producing a useful, concrete, and tangible result) should be withdrawn. Applicant makes reference to

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M.P.E.P. § 2106, "Patent Subject Matter Eligibility" and § 2107, "Guidelines for Examination of Applications for Compliance with the Utility Requirement", and respectfully submits that the claimed invention meets all applicable statutory requirements, and, furthermore, is consistent with the above-referred guidelines. In view of the foregoing discussion, this basis of rejection of claim 8, and claims depending from such a claim should be withdrawn.

Independent claims 21 and 23 are respectively directed to a computer-based method for structuring, storing and processing computer-readable data from a plurality of distinct software applications. Each of such claims recites structural and/or operational relationships that provide a tangible result, with real world value, such as 1) producing a network of objects that is free of incompatible data exchange structures in the plurality of distinct software applications, and 2) upon removal of such incompatibilities, performing an exchange of computer-readable data between the plurality of distinct software applications. The foregoing constitutes a particular practical purpose that has a specific and substantial utility in an automation system being engineered in the real world with multiple software application. Moreover, applicant believes that the foregoing results would be considered credible by a person of ordinary skill in the art, and, consequently, the rejections of claim 21 and 23 under 35 U.S.C. §101 as lacking utility (not producing a useful, concrete, and tangible result) should be similarly withdrawn for claims 21 and 23 and claims depending there from.

Applicant will now discuss the rejection of claims based on the Williams/Cheyer combination of references. The Office Communication proposes the combination of Williams and Cheyer to render obvious applicant's claimed invention. However, it is believed that the foregoing combination fails to constitute an appropriate *prima facie* combination for rejecting the claimed invention under the §103 statutory standards. As discussed in greater detail below, Cheyer should be excluded from this combination because Cheyer explicitly teaches away from providing a uniformly understood network of objects with respect to the plurality of distinct software applications, where the uniformly understood network of objects is freed of the one or more incompatible data exchange structures in the plurality of distinct software applications.

Claim 8 is directed to an object-based system for structuring, storing and processing of computer-readable data from a plurality of distinct software applications.

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The data comprises hierarchically structured data set objects stored in at least one object database. The data is subject to one or more incompatible data exchange structures in the plurality of distinct software applications. The computer-readable data is to be exchanged between the plurality of distinct software applications in accordance with a generic object model. Once the computer-readable data has been modeled in accordance with the generic object model, the data comprises a uniformly understood network of objects with respect to the plurality of distinct software applications. This uniformly understood network of objects is free of the one or more incompatible data exchange structures in the plurality of distinct software applications to perform the data exchange between the plurality of distinct software applications.

Williams is directed to a method and apparatus for translating the contents of databases into objects. More particularly, translating contents of relational databases to an object oriented view. See for example, Williams at: col. 4, lines- 08-45; col. 9, lines 51-53; col. 10, lines 33-36; col. 28, lines 18-23. The Office Communication acknowledges that Williams fails to describe or suggest an object-based system for structuring, storing and processing of data from a plurality of distinct software applications. The Office Communication then applies Cheyer to purportedly correct the deficiencies of Williams noted above.

As noted above, Williams is directed to a method and system for translating contents of relational databases to an object oriented view. Cheyer is directed to a distributed object system to facilitate interactions among a distributed agent community. Firstly, it is not apparent why one of ordinary skill in the art would combine Williams (a system for translating contents of relational databases to an object oriented view) with a reference that has nothing to do with relational databases, such as Cheyer that purports to facilitate interactions among a distributed agent community.

Even more fundamentally, Cheyer's principle of operation, as described by Cheyer, is substantially different from the structural and/or operational relationships claimed in the present invention as well as the principle of operation of Williams. In Cheyer, in the event an incompatible protocol arises, then Cheyer must first translate an incompatible request for service to a bridge agent, then translate the incompatible request into the Intelligent Communications Language (ICL), then finally Cheyer must transmit the translated incompatible request to the facilitator. See for example Cheyer at

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column 29, lines 54-67 through column 30, lines 1- 9. See also each of the independent claims of Cheyer respectively reciting one or more translating steps (claims 1, 10, and 19). None of the foregoing is applicable to the claimed invention or to Williams. See *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984) (finding no suggestion to modify a prior art device where the modification would render the device inoperable for its intended purpose).

More particularly, in the presently claimed invention one removes (e.g., frees) the incompatible data exchange structures in the plurality of distinct software applications and then performs the exchange of computer-readable between the plurality of distinct software applications. That is, Cheyer teaches away from the claimed structural and/or operational relationships being that Cheyer requires one or more translations of the incompatible request, whereas in the claimed invention once the data is modeled in accordance with the generic object model having the structural and/operational relationships set forth in claim 8, such data comprises a uniformly understood network of objects with respect to the plurality of distinct software applications. Unlike Cheyer, no translation is needed since the uniformly understood network of objects is free of the one or more incompatible data exchange structures in the plurality of distinct software applications to perform the data exchange between the plurality of distinct software applications.

It is noted that "to render a later invention unpatentable for obviousness, the prior art must enable the later invention." (Citations omitted) In this case, the Cheyer reference fails to enable the present invention since it fails to teach a uniformly understood network of objects with respect to the plurality of distinct software applications, where the uniformly understood network of objects is free of the one or more incompatible data exchange structures in the plurality of distinct software applications. Cheyer expressly requires one or more translations of the incompatible request translation. This is directly opposite to the claimed invention where data modeled in accordance with the generic object model results in a uniformly understood network of objects with respect to the plurality of distinct software applications and this uniformly understood network of objects is free of the one or more incompatible data exchange structures in the plurality of distinct software applications.

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Applicant believes it is error for the Examiner to suggest that since Cheyer is a secondary reference, then one can overlook the specific teachings of Cheyer. This suggestion is erroneous in view that the specific approach described by Cheyer cannot be disregarded since such an approach would make the claimed invention (and the resulting prior art combination) inoperable for its intended purpose. [P]rior art references must be read as a whole and consideration must be given where the references diverge and teach away from the claimed invention. . . . Moreover, [the Examiner] cannot pick and choose among individual parts of assorted prior art references "as a mosaic to recreate a facsimile of the claimed invention." (Citations omitted)

One of ordinary skill in the art would not have been motivated to combine the vastly different approach described by Cheyer that requires translation with the approach of Williams. Thus, the only way this combination could be motivated is by hindsight guided by applicant's claimed invention.

In view of the foregoing discussion, applicant respectfully submits that the combination of Williams and Cheyer fails to constitute an appropriate *prima facie* combination of references for sustaining the rejection of claim 8, under the applicable §103 statutory requirements. More particularly, Williams and Cheyer, singly and in combination, fail to teach or suggest the specific structural and/or operational relationships of the claimed Invention, and, consequently, this basis of rejection of claim 8 (and claims respectively depending from such a claim) should be withdrawn.

In connection with the rejection of claims 10, 11, 14 and 18 under 35 U.S.C. §103, over Williams in view of Cheyer and further in view of Devarakonda, applicant believes that Devarakonda fails to remedy the fundamental deficiencies of Cheyer noted above. Accordingly, applicant believes that the rejection of claims 10, 11, 14 and 18 should also be withdrawn.

Conclusion:

It is respectfully submitted that each of the claims pending in this application recites patentable subject matter and it is further submitted that such claims comply with all statutory requirements and thus each of such claims should be allowed.

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The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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